IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

TUESDAY, THE 3RD APRIL 2007 / 13TH CHAITHRA 1930

WP(C).No. 6406 of 2007(K)

PETITIONERS:
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1. **M.K. VELAYUDHAN, AGED 47 YEARS,**
   S/O. KURUMBAN, MUZHIKKATTU MOOLAYIL, THENGODU P.O.

2. **M.N. ABOOBACKER, AGED 50 YEARS,**
   S/O. KASALI (NAINA), MURIYANKARA HOUSE,
   THENGODU P.O.

3. **M.N. KOCHU MUHAMMED, AGED 56 YEARS,**
   S/O. KASALI (NAINA), MURIYANKARA HOUSE,
   THENGODU P.O.

4. **P.A. PAREED KUNJU, AGED 48 YEARS,**
   S/O. HAMEED, PUTHUKKARA HOUSE, THENGODU P.O.

BY ADV. SRI.V.S.CHANDRASEKHARAN
DR.VINCENT PANIKULANGARA

RESPONDENTS:
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1. **STATE OF KERALA,**
   REPRESENTED BY ITS CHIEF SECRETARY,
   SECRETARIAT, TRIVANDRUM.

2. **DISTRICT COLLECTOR, ERNAKULAM.**

3. **SPECIAL TAHSILDAR,**
   LAND ACQUISITION, COCHIN REFINERIES LTD.,
   THRIPUNITHURA.

BY GOVERNMENT PLEADER SHRI L.G. SURESH BABU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 03/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1 TRUE COPY OF THE NOTIFICATION LRC NO.45763/04 DATED 15.10.2006.

EXHIBIT P2 TRUE COPY OF THE REPRESENTATION DATED 10.1.2007 SUBMITTED BY THE PETITIONER TO THE SECOND RESPONDENT.

RESPONDENTS' EXHIBITS: NIL

K. PADMANABHAN NAIR, J.

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W.P(C) NO. 6406 OF 2007

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Dated this the 3rd day of April, 2007

J U D G M E N T

Petitioners are owners of lands situated in Kakkanad Village, Kanayannur Taluk. Their lands were acquired for a public purpose by a Notification issued under Section 4(1) of the Land Acquisition Act on 28.10.2003. In the Writ Petition it is averred that Section 6 declaration was issued on 15.10.2004 and hence an award ought to have been passed on or before 14.10.2006. It is averred that no awards were passed as contemplated under Section 11A of the Act within a period of 2 years from the date of declaration and hence the entire acquisition proceedings have been lapsed. It is further averred that the respondents are harassing the petitioners and their family members for the last 4 years under the pretext of the acquisition of their lands. Hence this Writ Petition for a declaration that the acquisition proceedings initiated and continued by Exhibit P1 have got lapsed on 15.10.2006 and also for a writ of mandamus restraining

respondents 2 and 3 from taking any further action in pursuant to Exhibit P1 Notification.

2. District Collector, Ernakulam has filed a counter affidavit in which he has stated that Section 4(1) Notification was issued on 14.8.2003 and declaration was published in the Kerala Gazette on 22.2.2004. It is contended that 140 land acquisition cases are included as per the Notification in question and awards have been passed in all cases in respect of the acquisition proceedings mentioned above. It is contended that declaration was last published in the office of the Land Acquisition Officer on 25.10.2004 and not 15.10.2004 as alleged in the Writ Petition. The allegation that the authorities are harassing the petitioners and their family members are also denied.

3. It is trite law where different modes of publication are provided, the last mode of publication has to be taken as the relevant date. It is contended that acquisition proceedings did not lapse since awards have been passed before 25.10.2006 within the period of 2 years from the date of declaration. It was submitted that excepting 36 cases in all other cases amounts

were paid and in 103 cases lands were taken in possession. So it is obviously clear that the statements made in the Writ Petition are false. It is clear that the Writ Petition has been filed with mala fide intention stating false averments. There is absolutely no material to show that there was any harassment as alleged in the Writ Petition. I do not find any reason to disbelieve the statements made by the District Collector in the counter affidavit that last notice of declaration was published in the office on 25.10.2004 and awards were passed before 25.10.2006. So, the prayer in the Writ Petition that it should be declared that the entire land acquisition proceedings have been lapsed is without any merit and the Writ Petition is only to be dismissed.

Writ Petition is accordingly dismissed.

K. PADMANABHAN NAIR, JUDGE.

vsv

K. PADMANABHAN NAIR, J.

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M.F.A. NO. OF

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J U D G M E N T

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15TH MARCH, 2007